

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JEROME CEASAR ALVERTO,

Plaintiff,

V.

MARGARET GILBERT,

Defendant.

CASE NO. 3:18-CV-05573-RJB-DWC
ORDER

Plaintiff Jerome Ceasar Alverto, proceeding *pro se* and *in forma pauperis*, filed this Complaint under 42 U.S.C. § 1983. Dkt. 6. Presently before the Court are Plaintiff's Motion to Supplement the Record ("Motion to File Signature Page") (Dkt. 25); Plaintiff's Motion for Extension of Time to File the Enclosed and Updated Corrected Information ("Motion for Extension of Time") (Dkt. 31); Plaintiff's Motion to Supplement the Record ("Motion to Supplement") (Dkt. 32); and Plaintiff's Motion for Leave to File Extended Surreply ("Motion to File a Surreply") (Dkt. 33). Also pending in this matter is Defendants' Motion for Summary Judgment. Dkt. 18.

After considering the motions and relevant record, the Motion to File Signature Page (Dkt. 25) is granted. The Motion for Extension of Time (Dkt. 31) is granted-in-part, and the

1 Motion to Supplement (Dkt. 32) is granted. Lastly, the Motion to File a Surreply (Dkt. 33) is
2 denied. The Clerk is directed to re-note Defendants' Motion for Summary Judgment (Dkt. 18)
3 for consideration on May 10, 2019.

4 **I. Motion to File Signature Page (Dkt. 25)**

5 On March 18, 2019, Defendants filed the Motion for Summary Judgment. Dkt. 18. On
6 April 2, 2019, Plaintiff filed a Response to the Motion for Summary Judgment. Dkt. 24. With the
7 Response, Plaintiff filed a Declaration. *See id.* at pp. 24-37. On April 4, 2019, Plaintiff submitted
8 the Motion to File Signature Page. Dkt. 25. Plaintiff maintains that he misplaced the signature
9 page when filing the Response and seeks to add the signature page to the Declaration. *See id.*
10 Defendants do not oppose Plaintiff's request. Dkt. 30. Accordingly, the Motion to File Signature
11 Page (Dkt. 25) is granted. The Court will consider the signature page as part of the record when
12 deciding Defendants' Motion for Summary Judgment.

13 **II. Motion for Extension of Time (Dkt. 31), Motion to Supplement (Dkt. 32), and
Motion to File Surreply (Dkt. 33)**

14 On April 18, 2019, Plaintiff filed the Motion for Extension of Time. Dkt. 31. In the
15 Motion for Extension of Time, Plaintiff requests leave of Court to file (1) supplemental pages to
16 his Response, as set forth in the Motion to Supplement (Dkt. 32); and (2) a surreply to
17 Defendants' Reply, as set forth in the Motion to File a Surreply (Dkt. 33). *See* Dkt. 31, p. 3. For
18 the reasons set forth below, the Motion for Extension of Time (Dkt. 31) is granted-in-part.

19 **A. Motion to Supplement (Dkt. 32)**

20 In the Motion to Supplement, Plaintiff requests an extension of time to file amended
21 pages to his Response to Defendants' Motion for Summary Judgment. *See* Dkt. 32; *see also* Dkt.
22 31. Plaintiff asserts he did not receive a deposition transcript Defendants filed with the Motion
23 for Summary Judgment until after Plaintiff filed the Response. *See* Dkt. 32. As such, Plaintiff
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1 requests the Court grant him an extension of time to allow him to file amended pages to his
2 Response to the Motion for Summary Judgment. *See id.*; *see also* Dkt. 32. Specifically, Plaintiff
3 seeks to “supplement” pages in his Response “with corrections” by adding citations to the
4 deposition transcript he maintains he previously could not access. Dkt. 32, pp. 1-2; *see also* *id.* at
5 pp. 4-8. Defendants oppose Plaintiff’s Motion to Supplement, asserting the record does not
6 indicate anyone deprived Plaintiff of his access to the deposition transcript. Dkt. 32, pp. 2-3.
7 Further, Defendants argue Plaintiff’s “filings are an attempt” to get “the last word” on the
8 Motion for Summary Judgment. *Id.* at p. 3.

9 After reviewing the record, the Court finds Plaintiff, in the Motion to Supplement, merely
10 seeks to add deposition transcript citations to the content he already filed in the Response.
11 *Compare* Dkt. 24, pp. 28, 30, 32, 35, and 36 *with* Dkt. 32, pp. 4-8. As Plaintiff is not altering the
12 content of the Response, the Court finds the interests of justice require granting the Motion to
13 Supplement. Thus, the Motion to Supplement (Dkt. 32) is granted. The Court will consider the
14 pages submitted with the Motion to Supplement (Dkt. 32, pp. 4-8) when deciding Defendants’
15 Motion for Summary Judgment.

16 As Plaintiff is granted leave to file amended pages into the record, the Court, in an
17 abundance of caution, will allow Defendants to file a supplemental reply to the Motion for
18 Summary Judgment on or before May 10, 2019.

19 B. Motion to File a Surreply (Dkt. 33)

20 Lastly, in the Motion to File a Surreply, Plaintiff requests leave of Court to file a surreply
21 to Defendants’ Reply regarding the Motion for Summary Judgment. Dkt. 33; *see also* Dkt. 31.
22 Plaintiff likewise seeks to file a declaration in support of the surreply. *See* Dkt. 33-2. Defendant
23 opposes Plaintiff’s Motion to File a Surreply, contending the surreply “simply responds to
24

1 Defendants' [R]eply" and "is not aided by 'new' information" from the deposition transcript.
2 Dkt. 34, p. 3.

3 Pursuant to Local Rule CR 7(g)(2), surreplies are "strictly limited" to requests to strike
4 material contained in or attached to a reply brief. "Extraneous argument or a surreply filed for
5 any other reason will not be considered." *Id*; *see also Hernandez v. Stryker Corp.*, 2015 WL
6 11714363, at *2 (W.D. Wash. Mar. 13, 2015).

7 Here, Plaintiff seeks to file a surreply to respond to content contained in Defendants'
8 Reply to the Motion for Summary Judgment. *See* Dkt. 33-1. Though Plaintiff briefly states he did
9 not timely receive the deposition transcripts, *see* Dkt. 33-1, p. 3, the content of the surreply
10 contains extraneous argument responding to Defendants' Reply. *See* Dkt. 33-1. Because Plaintiff
11 does not seek to strike material contained in or attached to Defendants' Reply, Plaintiff's Motion
12 to File a Surreply (Dkt. 33) is denied. The Court will not consider the surreply or the attached
13 declaration when deciding Defendants' Motion for Summary Judgment.

14 **III. Conclusion**

15 The Motion to File Signature Page (Dkt 25) is granted. The Motion for Extension of
16 Time (Dkt. 31) is granted-in-part. Further, the Motion to Supplement (Dkt. 32) is granted. Lastly,
17 the Motion to File a Surreply (Dkt. 33) is denied.

18 Defendants may file a supplemental reply to the Motion for Summary Judgment on or
19 before May 10, 2019. The Clerk is directed to re-note Defendants' Motion for Summary
20 Judgment (Dkt. 18) for consideration on May 10, 2019.

21 Dated this 6th day of May, 2019.

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23 _____
24 David W. Christel
United States Magistrate Judge